

**HOUSE JOINT RESOLUTION NO. 36**

(By Delegates Hunt (By Request), Poore and Skaff)

[Introduced February 9, 2011; referred to the Committee on  
Constitutional Revision then the Judiciary.]

Proposing an amendment to the Constitution of the State of West  
Virginia, amending section five, article eight thereof,  
relating to eliminating individual terms of circuit courts;  
numbering and designating such proposed amendment; and  
providing a summarized statement of the purpose of such  
proposed amendment.

*Resolved by the Legislature of West Virginia, two thirds of  
the members elected to each house agreeing thereto:*

That the question of ratification or rejection of an amendment  
to the Constitution of the State of West Virginia be submitted to  
the voters of the State at the next general election to be held in  
the year 2012, which proposed amendment is that section five,  
article eight thereof be amended, to read as follows:

**ARTICLE VIII. JUDICIAL POWER.****§5. Circuit courts.**

1       The judge or judges of each circuit court shall be elected by  
2 the voters of the circuit for a term of eight years, unless sooner  
3 removed or retired as authorized in this article. The Legislature  
4 may prescribe by law whether the election of such judges is to be  
5 on a partisan or nonpartisan basis. Upon the effective date of  
6 this article, each statutory court of record of limited  
7 jurisdiction existing in the state immediately prior to such  
8 effective date shall become part of the circuit court for the  
9 circuit in which it presently exists, and each such judge of such  
10 statutory court of record of limited jurisdiction shall thereupon  
11 become a judge of such circuit court. During his or her  
12 continuance in office, a judge of a circuit court shall reside in  
13 the circuit of which he or she is a judge.

14       The Legislature may increase, or other than during term of  
15 office decrease, the number of circuit judges within any circuit.  
16 The judicial circuits in existence on the effective date of this  
17 article shall remain as so constituted until changed by law, and  
18 the Legislature, at any session thereof held in the odd-numbered  
19 year next preceding the time for the full-term election of the  
20 judges thereof, may rearrange the circuits and may increase or  
21 diminish the number of circuits. A judge of a circuit court in  
22 office at the time of any such change shall continue as a judge of  
23 the circuit in which he or she shall continue to reside after such  
24 change until his or her term shall expire, unless sooner removed or  
25 retired as authorized in this article.

1        There shall be at least one judge for each circuit court and  
2 as many more as may be necessary to transact the business of such  
3 court.    If there be two or more judges of a circuit court,  
4 provision shall be made by rules of such circuit court for the  
5 selection of one of such judges to serve as chief judge thereof.  
6 If the chief judge is temporarily disqualified or unable to serve,  
7 one of the judges of the circuit court designated in accordance  
8 with the rules of such court shall serve temporarily in his or her  
9 stead.

10       The Supreme Court of Appeals shall provide for dividing the  
11 business of those circuits in which there shall be more than one  
12 judge between the judges thereof so as to promote and secure the  
13 convenient and expeditious transaction of such business.

14       In every county in the state the circuit court for such county  
15 shall sit ~~at least three times in each year. The supreme court of~~  
16 ~~appeals shall designate the times at which each circuit court shall~~  
17 ~~sit, but until this action is taken by the supreme court of~~  
18 ~~appeals, each circuit court shall sit at the times prescribed by~~  
19 ~~law~~ continuously. If there be two or more judges of a circuit  
20 court, such judges may hold court in the same county or in  
21 different counties within the circuit at the same time. ~~or at~~  
22 ~~different times.~~

23       *Resolved further,* That in accordance with the provisions of  
24 article eleven, chapter three of the Code of West Virginia, 1931,  
25 as amended, such proposed amendment is hereby numbered "Amendment

1 No. 1" and designated as the "Homestead Exemption Increase  
2 Amendment" and the purpose of the proposed amendment is summarized  
3 as follows: "The purpose of this amendment is to eliminate  
4 individual terms of circuit courts so that those courts may sit  
5 continuously during the year."

NOTE: The purpose of this resolution is to eliminate the three individual terms of circuit courts so that those courts may sit continuously during the year. The counties may, like Kanawha County, use a grand jury, thus making individual terms unnecessary.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.